

REMARKS

Applicants respond to the Office Action dated April 3, 2007. Claims 1, 6, 10, 11 and 13-28 are pending in this application. Reconsideration of these claims is respectfully requested in view of the remarks below.

The Examiner has taken the position that claims 10 and 11 have been withdrawn from further prosecution. Applicants note that in response to the previous restriction of species requirement, claims 10 and 11 were not withdrawn from consideration. Applicants submit that the distal tapered section covered by dependent claims 10 and 11 can be incorporated into the filter structure shown in FIG. 24, the elected species. The specification states the following at page 34, lines 8-9:

Likewise, any of the devices disclosed can embody the obturators or distal tips disclosed herein or for that matter, a filter membrane.

Therefore, there is ample support for adding the distal tip structures shown in FIGS. 27 and 28 to the filter body structure shown in FIG. 24. Accordingly, Applicants submit that further prosecution of claims 10 and 11 should be allowed.

Claims 1, 6 and 13-28 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,013,093 to Nott et al. (the "Nott patent"). Applicants respectfully submit that the Examiner has misinterpreted the disclosure of the Nott patent. Applicants note that the Nott patent does not disclose a body (filter 10) attached to an elongate member as recited in claims 1, 6, 10, 11 and 19-23. Likewise, the filter 10 does not extend distally from, or diverge from, the elongate member as recited in claims 13-18 and 24-28. The structure identified by the Examiner as the elongate member in the Nott patent is merely a pusher 134 which is not connected to filter 10 (body), but rather, remains in an abutting relationship with the filter. The pusher 134 is used to advance the filter 10 through a sheath 132 to the desired location in the body vessel. Then, the filter 10 is released within the vessel as is shown in FIG. 5A. The sheath and pusher can then be withdrawn from the patient. (see Col. 7, line 54 to Col. 8, line 2 of the

Nott patent) Accordingly, the filter 10 cannot possibly be connected to, or diverge from or extend distally from the elongate member, as recited in the claims, since the pusher 134 must separate from the filter 10 in order to implant the filter 10 as shown in FIG. 5A. For at least this reason alone, the Nott patent fails to disclose the basic structure recited in the pending claims. Applicants respectfully request the Examiner to withdraw the Nott patent as an anticipatory reference as to all pending claims.

Applicants note that other elements recited in the claims are lacking in the Nott patent. For example, the Examiner has notably failed to identify the "substructure that absorbs forces applied to the body" as recited in claims 1, 18, 23 and 28. The Nott patent also fails to disclose the use of a filter membrane as recited in claims 14, 20 and 25. Moreover, the Nott patent fails to disclose the use of a pair of proximal ring members and a pair of distal ring members as recited in independent claims 13 and 24. At best, the Nott patent shows the use of only two rings in its filter 10. Accordingly, the filter structure requiring a pair of proximal rings and a distal ring, as recited in claim 19, also is lacking in the Nott patent. For at least these additional reasons, the Nott patent fails to anticipate the pending claims.

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,347,846 to Dormia (the "Dormia patent"). Applicants note that the Examiner has failed to identify the structure in the Dormia patent that constitutes the "substructure that absorbs forces applied to the body" as recited in claim 1. Applicants submit that the filter device disclosed in the Dormia patent lacks such a structure. Accordingly, Applicants respectfully request the Examiner to withdraw the Dormia patent as an anticipatory reference to claim 1.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

The commissioner is authorized to charge any deficiencies in fees or credit any overpayments to our Deposit Account No. 06-2425.

Respectfully submitted,

FULWIDER PATTON LLP

By: /Thomas H. Majcher/

Thomas H. Majcher, Reg. No. 31,119

THM:lm

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
185081.1